IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 23 OF 2005
IN
CRIMINAL APPEAL NO. 5 OF 2005

The State of Maharashtra ...Applicant

Versus

Ganpat Sidram Waghmare & Ors ...Respondents

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Ms. S.V Gajare, A.P.P. for Applicant-State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 5TH AUGUST, 2005

P. C.:-

1. Heard the learned A.P.P. for the State.

2. Being aggrieved by the judgment and order of acquittal dated 24.10.2002 passed by the learned III Ad-hoc Assistant Sessions Judge Solapur in Sessions Case No. 226 of 2001, the appellant i.e. State of Maharashtra has preferred an appeal i.e. Criminal Appeal No. 5 of 2005, against acquittal of the respondents herein. By the said judgment and order, the learned Sessions Judge acquitted the respondent Nos. 1 to 10 i.e. original accused Nos. 1 to 10 of the offences under Section 147, 148, 325, 323 and 336 r.w. 149 of I.P.C. As there was delay in filing the appeal hence, the present application has been filed

for condonation of the said delay.

3. It may be stated here that there is delay of 692 days in filing the appeal. There is delay of about four months by the office of the District Government Pleader in forwarding the proposal for filing appeal against acquittal. Though the certified copy of the judgment and order was received by the office of the District Government Pleader on 15.11.2002, the proposal came to be submitted to the Law and Judiciary Department on 7.3.2003. Though the papers were forwarded to Law and Judiciary Department on 7.3.2003, the proposal was scrutinized by the Law and Judiciary Department on 24.2.2004. No explanation, at all, has been given by the Law and Judiciary Department for the delay in scrutinising the papers. Thereafter, a resolution came to be issued on 1.10.2004. By way of the said resolution the office of the Public Prosecutor was directed to file an appeal against acquittal. Again no explanation has been given for the period between 24.2.2004 to 1.10.2004. The papers were received in the office of the Public Prosecutor, High Court (Appellate Side), Bombay on 4.10.2004 and the appeal came to be filed on 4.1.2005.

4. As far as the period from 4.10.2004 to 4.1.2005 is concerned, some explanation has been given by the

office of the Public Prosecutor. However, it is seen that the major delay has occurred with the Law and Judiciary Department, however, no explanation, at all, has been given for the said delay. The total delay is of 692 days. No reasonable and plausible explanation has been given for the said delay. In this view of the matter, I am of the opinion that this is not fit case to condone the delay.

5. Application is rejected.

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Ms. S.V Gajare, A.P.P. for Appellant-State.

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P. C.:-

. In view of the order dated 05.08.2005 passed in Criminal application No.23 of 2005, this appeal does not survive and is disposed of as such.

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